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ABSTRACT

A preliminary review of early responses to a questionnaire sent to secondary school principals across the United States revealed that most administrators felt more rigorous due process procedures should be followed in discipline cases than those required by federal regulations and school policies. The principals also tended to believe that corporal punishment should be permitted under certain circumstances and that both inadequate teacher training concerning discipline and a lack of adequate alternative programs for students were the major factors limiting schools' abilities to maintain order. The 120 completed questionnaires from which these findings came were the first returns from the National Center for Education Statistics' study of School Discipline Policies and Practices. A random sample of 900 public schools housing secondary grades was selected to participate in the survey. The survey questions focus on the procedures required before short-term suspensions, the training given teachers, the use of corporal punishment, perceived obstacles to achieving discipline, practices implemented to improve discipline, and the current extent of discipline problems. Particular attention was paid to the impact of federal court decisions on school discipline policy and to the relationship of school policy to actual practice. (PGD)

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Legal Issues in Educational Order: Principals' Perceptions of School Discipline Policies and Practices

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Legal Issues in Educational Order: Principals' Perceptions of School Discipline Policies and Practices

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The objective of the NCES study of School Discipline Policies and Practices is to provide information on certain discipline procedures currently followed by junior and senior high schools and on the major perceived obstacles, especially those that may be legal or regulatory, to attainment of effective school discipline. The overall study explores relationships among school discipline, official decisions and policies at the Federal, State and local levels, and school administrator's perceptions of these decisions and policies as they relate to due process for suspension, liability to be sued in issues of student civil rights, and other legal issues.

This paper has a more limited aim. It will discuss the rationale for the study and related background information and present only selected findings on the above topics based on a subsample of 120 early questionnaire returns rather than their interrelationships since data collection is not yet complete.

This paper springs from a mandate of the National Council on Educational Research, the policy board of the National Institute of Education. In March 1984 the Council directed NIE to among other things "initiate surveys of students, parents, teachers, and school officials to discover any obstacles to educational order that might be perceived to be related to official decisions or policies," and "compare these perceptions with the actual laws and legal rulings throughout the nation...." It was beyond NIE's resources to launch surveys of various stakeholders as requested, but a limited and timely response was possible by means of this survey of perhaps the key actors, secondary school

principals. The survey was conducted as part of th Fast Response Survey System of the National Center for Education Statistics. Because it is national in scope but brief in length, this questionnaire could not explore specific legal issues arising at the state or local level.

Background

Recently there has been significant interest in the issue of public school discipline and its effects on the learning environment in the schools. This has been expressed in a variety of journals, a report to the President, and several recent hearings before Congress.

A 1983 report to the President from a Cabinet Council working group on school violence and discipline issues pointed to various indications of a serious problem (in Educational Research Service, 1984). The report concludes that most urban schools are not dealing well with the discipline problem. One reason cited is that "legal procedures prevent effective prosecution" either because of actual legal restrictions or because educators become overly cautious in reading court decisions. Such conditions led President Reagan recently to direct the Education and Justice Departments to examine "possible modifications of federal law to avoid undercutting the authority of state and local school officials to maintain effective discipline" (Education Daily, 1985).

A number of educators responded to the report to the President in a set of hearings in the Congress in early 1984. Some took issue with the assertion

that the school discipline problem is getting worse and with the proposed no-cost and legalistic remedies (Educational Research Service, 1984). Baker (1985) reviews the evidence on the extent of the problem and concludes that there is a slight overall improvement in the discipline problem. But he also states that far too often criminal behavior disrupts learning, and that many educators fail to recognize the importance of the problem and take action.

It has been argued that school administrators are unduly constrained by Federal, State and local regulations and court decisions. Bearing on this is a 1984 national poll of teachers (Gallup). When asked the reasons for school discipline problems, two-thirds (65%) selected the view that "The courts have made school administrators so cautious they don't deal severely with student misbehavior." Somewhat fewer members of a national sample of the general public (41%) had agreed with the same position in a 1983 poll (Gallup, 1984). Teachers selected reasons outside the school most often including 'lack of discipline in the home" (94%) and "lack of respect for law and authority throughout society" (74%). Smaller majorities of the public also saw these as important, but the public was also much more likely than teachers to say that teachers are part of the discipline problem - that teachers themselves do not command respect (36% vs. 23%), and are not properly trained to deal with discipline problems (42% vs. 19%). Thus the public and school teachers perceive the origins of the school discipline problem somewhat differently, particularly with regard to the role of the courts and of teachers themselves.

A second point at issue is whether educators incorrectly attribute limitations to Supreme Court rulings and Federal regulations when in fact they have a more local origin. To date information on this is slender. In a study of six Midwestern secondary schools which surveyed over 200 teachers, Hollingsworth and her colleagues (1984) concluded that teachers often had an unclear picture of what the courts had said about school discipline. Their beliefs seemed gleaned in bits and pieces from different sources reporting different courts decisions and individual civil cases. From this, many formed the belief that they might be sued and their actions reviewed by the courts.

At the time of the Hollingsworth study, two years after the 1975 Goss v. Lopez decision of the Supreme Court on the due process in student suspensions, only a scant majority of the teacher respondents (54%) knew that a student had the right to a hearing before a short-term suspension. In this and other areas, many teachers thought the Supreme Court had laid down more rules than it actually had such as the right to legal counsel before being suspended (Hollingsworth et al, 1984).

In a 1981 study in fifteen Indiana senior high schools, over two-thirds of the administrators surveyed (71%) mentioned all the rights required by Goss and state law when asked to describe procedures followed in suspension cases. But only a minority of counselors and teachers surveyed in the schools mentioned all the rights required. (Teitelbaum, 1983). Thus knowledge of major court decisions and other legal requirements may be far from accurate and complete among staff and even among administrators unless substantially more information has been absorbed since these studies were conducted.

When the principals in the Indiana study were asked whether school discipline procedures constrained their actions only slightly more than one third said yes, exactly the same proportion (36%) as for teachers. Thus it appears from the scant evidence available that knowledge of the basic due process requirements before short-term suspensions laid down by the Supreme Court may be quite incomplete if not exaggerated, but not so often a limitation on disciplinary actions.

The findings to be presented will explore each of the themes discussed, particulary federal and local requirements which may affect discipline and order in schools. Some key federal requirements are the major Supreme Court decisions of the last decade which specify certain minimal due process procedures, permit corporal punishment of students, and allow educators to be sued if students' civil rights are violated in disciplinary actions. However, the Court later awarded only minimal damages (one dollar) in a related case of Wood v. Strickland, so the fear of large finanicial loss in being sued is probably ill-founded. Due process procedures not required by the Supreme Court are also explored to see how widely they are also practiced, and whether they too are seen as burdensome or beneficial.

The questionnaire was designed to be completed by school principals. Special questions focus on providing information concerning: 1) status of procedures required before short term suspesion is given, and evaluation of those procedures, 2) extensiveness of training given teachers in the areas of school discipline law and polilices, 3) use of corporal punishment and evaluation of its

use, 4) perceived obstacles to achieving school discipline, 5) practices implemented to improve student discipline, and 6) measures of the current extent of the problem in the schools. For purposes of this preliminary report, only marginal univariate statistics will be presented, and the measure of disruptive behavior is limited to preceived change in such behavior in the last five years.

The final report will include measures of various student infractions, positive steps schools are taking to improve discipline, as well as analysis of the other data by grade level (junior high or senior high school), metropolitan status (urban, suburban, rural), socioeconomic status of the students in the school, and degree to which discipline is a problem in the school.

Methodology

This study was based on a random sample of 900 public schools selected from the NCES 1982 Common Core of Data School Universe for the 50 states and the District of Columbia. Schools without junior or senior high school grades were excluded from the sampling frame.

The remaining schools (approximately 30,000), were divided into four strata (1) junior high, (2) senior high, (3) combined junior/senior and (4) other schools (including ungraded, vocational, special education, and alternative schools). Each of the four major strata was sorted by geographic region and within region by three categories of district enrollment (less than 1000; 1000 to 24,999 and 25,000 and over). Within each district category schools were ordered by school size.

The sample was allocated proportionately to the number of schools in each stratum. The schools were selected systematically with probability proportinate to size. The measure of size used was the square root of school enrollment. This measure is useful in providing fairly accurate estimates for both percentages and totals.

Preliminary Results

The survey findings at this point are very preliminary -- based on simple unweighted counts from a subsample of 120 of the early questionnaire returns. Nevertheless, some tentative general conclusions can be drawn.

Due Process in Short Term Suspension and Other Legal Issues

Virtually all schools follow the Supreme Court decisions on short term suspension in Goss v. Lopez which requires that before students are suspended they must be presented, orally or in writing, with the reasons for the suspension and that if misconduct is denied, be given the opportunity to tell their version of the event and be given an explanation of the evidence against them. While most schools follow these procedures in practice, some school principals do not believe the procedures are required by school policy.

A majority of schools also practice each of the following procedures which are not required by any Supreme Court decision.

- If a student denies misconduct, the student's parents are invited to a formal or informal hearing

- If the facts are disputed, the student or a third party is allowed to question others involved in or witnessing the event
- A formal or informal appeal process is made available.

However, of these three, only the appeals process is a required policy in a majority of schools. For the other two procedures, schools more often carry them out without formally requiring them.

Small percentages consider the Supreme Court rulings to be a moderate or large operational burden. Most believe their burden is small. The next least burdensome procedure appears to be the appeals process. A majority, however, report that the remaining procedures, having parents present at a hearing and allowing the questioning of others by the accused or a third party, are a moderate to large operational burden.

Generally consistent with other school responses on this question, most administrators responded that, considering the operational burden, student rights, and the impact on student attitudes toward discipline, both the federally required and other due process procedures discussed above <u>should</u> be practiced. It is interesting that a significant percentage (estimated at this time at one third) do not believe the accused or a third party should be allowed to question others.

The current study found that a majority of school principals feel that corporal punishment should be permitted under certain circumstances and currently permit paddling or other forms of corporal punishment at their school. The Safe School Study found that in 1976 36% of all secondary schools reported some paddling of students during a month's time. In 1977, the Supreme Court decided in Ingraham v. Wright "that the State itself may impose such corporal punishment as is reasonably necessary 'for the proper education of the child and for the maintenance of group discipline.'" The larger current percentage may reflect more acceptance of corporal punishment after the Supreme Court decision sanctioned its use, but the current figure is not strictly comparable to the 1976 figure because this survey asked whether corporal punishment was permitted. A larger percentage of schools might be expected to permit it than to have practiced corporal punishment as was asked in the Safe School Study.

A question closely related to the general issue of corporal punishment deals with rules for disciplining handicapped students. The Education for All Handicapped Children Act (P.L. 94-142) prescribed more extensive due process procedures for the handicapped when a change of placement (e.g., suspension, expulsion or a new course of studies) was contemplated. There has also been concern, however, over whether schools have adopted more lenient rules for discipling the handicapped in situations which do not call for suspension or expulsion, perhaps as a result of interpretations of the Education for All Handicapped Children Act. Study results show that while this does occur, it is not widespread. Currently a majority of schools have no more lenient rules for disciplining handicapped students than they do for non-handicapped students.

Constraints on Order and Discipline

Schools were asked to rate on a scale of 0 to 5 (0 = not at all, 1 = very little, 5 = very much) how much each of the following factors limited their ability to maintain order in the school.

- Lack of or inadequate number of security personnel
- Teacher fear of being sued for disciplining students
- School principal/administrator fear of being sued for disciplining students
- Lack of or inadequate teacher training in discipline procedures and school law
- Lack of or inadequate alternative placements/programs for disruptive students

Overall, school principals indicated that lack of security personnel, teacher's fears of being sued, or principal's fears of being sued for disciplining students posed little limitation on their ability to maintain order and to discipline students. In a related question a majority of principals indicated that they were not aware of any lawsuits in their school district regarding student discipline or any State or local court decisions in favor of students in circumstances of denied due process.

The other constraints, lack of or inadequate teacher training in discipline procedures and school law and lack of or inadequate alternative placements/programs for disruptive students were a greater limitation on

schools' ability to maintain order than those previously discussed. Consistent with their responses that inadequate teacher training in discipline procedures and school law limited the school's ability to maintain order, a majority of principals reported that the school or school district did not require teachers to have inservice training on student discipline policy or law. (A majority also reported no required inservice for principals). More principals (approximately two fifths) rated the lack of alternative placements/programs as a strong limitation (a rating of 4 or 5) on their ability to maintain order than did so for the other constraints.

Taken together these findings suggest that significant constraints to maintaining order lie not so much in fear of lawsuits or even a lack of security personnel, but rather in the lack of appropriate staff training and adequate alternative placements and programs. While many schools may have alternative programs such as in-school suspension, a much less developed area, yet one with relatively low cost, is teacher training in discipline procedures and school law.

Remaining Issues

One of the driving forces behind this study has been the assumption that discipline in the school is a continuing serious problem. The current study sheds some light on that part of school discipline which concerns students' classroom behavior. Principals' responses indicated that today student classroom behavior is seen on the average as somewhat less disruptive than it was 5 years ago. This finding is only one facet of the school discipline

environment and in no way implies that the problem in other dimensions is not a serious one or that the extent of the problem is the same for all subgroups. An unspecified amount of bias is no doubt present in the report of some principals who want to see that discipline has improved under their administration. However, this finding agrees with Moles' (1983) conclusion from examining national student and teacher victimization data that there has been no progressive increase of common interpersonal crime in schools in recent years, and with Baker's (1985) assessment that there has been a slight overall improvement in the discipline situation.

Some of the issues discussed here will be explored in greater detail in a bulletin to be issued later this year once data collection and analysis are completed. At that time it will be possible to see how well the patterns detected in these preliminary results apply to various subgroups such as junior and senior highs, schools in big cities and suburbs, high and low income area schools, etc. The Safe School Study (1978) findings and other sources suggest that many discipline problems are probably more intense in junior highs and big cities, but whether school with more problems also have more or less comprehensive and strict disciplinary procedures or different attitudes toward the problem remains to be seen.